

## **REMARKS**

Favorable reconsideration of this Application and the Office Action of November 30, 2004 are respectfully requested in view of the foregoing amendments and the following remarks.

Claims 1 to 21 remain under consideration in this application.

The typographical error in claim 11, kindly noted by the Examiner, has been corrected. This amendment to claim 11 has not been made for purposes of patentability.

The rejection of claims 1 to 21 under 35 U.S.C. 103(a) as being unpatentable over Wigton et al. in view of the (allegedly) admitted prior art is respectfully traversed. It is respectfully submitted that the claimed invention is not obvious to one skilled in the pertinent art in view of the prior art and, therefore, the PTO is respectfully requested to withdraw this rejection.

It is respectfully submitted that one having a full and complete understanding of the present invention clearly understands that the claimed invention is not disclosed, taught or in any way rendered obvious from the prior art.

Prior to Applicant's invention, the conventional way of attracting mosquitoes and other related insects was by providing CO<sub>2</sub> in one of two ways, either by use of a pressurized container of CO<sub>2</sub> gas or by providing a pressurized container of a hydrocarbon

fuel, which hydrocarbon fuel was burned to produce CO<sub>2</sub>. In either event, it is necessary to have a pressurized container (of either the CO<sub>2</sub> or the hydrocarbon) that is required to be replaced (inconveniently) on a frequent basis. For a discussion of this and the disadvantages attended thereto applicant refers the PTO to paragraph [0005] of the present application and the need for an alternative, improved system that could avoid these disadvantages. In accordance with the present invention an insect-attracting gaseous product is produced directly from air and does not require the use of pressurized containers of CO<sub>2</sub> or burnable hydrocarbon fuel that requires constant replacement of the containers. Rather, in the present invention an insect-attracting gaseous product is produced directly from air by passing the air through a unit that produces ozone from the air to produce a gaseous product containing ozone and then passing that gaseous product containing ozone through activated carbon to produce the insect-attracting gaseous product. In the present invention, the air supply is an inexhaustible supply and there is no need for replaceable containers of hydrocarbon fuel or pressurized CO<sub>2</sub>.

The Wigton et al patent, relied upon by the PTO, is representative of such prior art systems. The PTO characterization of what Wigton et al. discloses is incomplete and thus misleading. The system of Wigton et al. requires burning of propane or other hydrocarbon fuel in a catalytic burner, the fuel being located in pressurized tank 14. . See the abstract and column 5, lines 25 to 30. It is this very type of apparatus that the present invention would replace and eliminate the need for replaceable, pressurized fuel containers. There is absolutely nothing in Wigton et al. that would lead one to a system that did not require pressurized containers of hydrocarbon fuel.

Applicant's specification only admits that ozone generators and activated carbon are themselves, per se, known entities, so that it is not necessary to invent them in order to carry out the invention and their existence is acknowledged to eliminate the need to describe in the specification (to comply with any Section 112 requirements) of how to produce an

ozone generator or activated carbon. **While both ozone generators and activated carbon filters are known entities, they are not known in the context of their use in the present invention and nothing in the prior art suggests their use in that context.** The only reason the USPTO Office Action suggests their use in that context is because of the hindsight of Applicants claims and disclosure. Such a hindsight reconstruction rejection is legally impermissible and is not a proper basis for rejection of a claimed invention. The prior art, **in and of itself**, must render obvious the claimed invention. Thus, clearly, the prior art does suggest the claimed apparatus or process for producing an insect-attracting gaseous product directly from air by passing the air through a unit that produces ozone from the air to produce a gaseous product containing ozone and then passing that gaseous product containing ozone through activated carbon to produce the insect-attracting gaseous product. This is a completely different apparatus and process than disclosed in the prior art and is not merely substituting one source of carbon dioxide for another, nor is the function the same as erroneously alleged by the PTO in the Office Action.

The air mentioned in the Wigton et al. disclosure is not converted to a gaseous product containing ozone, nor is it passed through an ozone generator and activated carbon as in the present invention. The air in Wigton et al. is merely a carrier gas surrounding the exhaust gas.

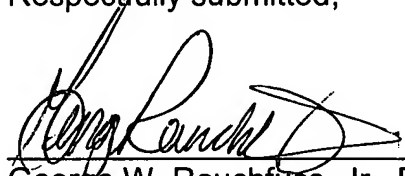
Thus, it is abundantly clear that the prior art does not render obvious the method of Applicant's claim 1 for producing an insect-attracting gaseous product, nor the apparatus of claim 5 for producing such insect-attracting gaseous product or a device for trapping or destroying insects utilizing such apparatus, nor the use of an insect-attracting gaseous product produced in accordance with claim 1 for attracting and destroying insect as claimed in claim 13. Therefore, these claims 1, 5, 8 and 13, as well as claims 2-4, 6-7, 9-12 and 14-21 dependent therefrom, are unobvious over the prior art and are patentable. The PTO is, therefore, respectfully requested to reconsider and withdraw the 35 U.S.C.

103(a) rejection of claim 1 to 21 over Wigton et al. in view of the alleged admitted prior art.

It is respectfully submitted that the foregoing is a full and complete response to the Office Action and that all the claims are allowable for at least the reasons indicated. An early indication of their allowability by issuance of a Notice of Allowance is earnestly solicited.

Respectfully submitted,

Date: January 10, 2005

A handwritten signature in black ink, appearing to read "George W. Rauchfuss, Jr.", is written over a horizontal line.

George W. Rauchfuss, Jr., Esq.  
Registration No. 24,459  
Attorney for Applicant(s)  
Ohlandt, Greeley, Ruggiero & Perle, L.L.P.  
One Landmark Square, 10<sup>th</sup> floor  
Stamford, CT 06901-2682  
Tel: (203) 327-4500  
Fax: (203) 327-6401